(4)

Single Bench

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

W.P. (S) NO. 5862 / 2006

Petitioner : Hemant Kumar Vishwakarma,
S/o. Shri Chudamani Vishwakarma,
Aged about 36 years, Asst. Teacher,
Govt. Primary School, Hathitikra,
Block- Nawagarh,
Distt. – Janjgir -Champa (C.G.)

P.R. No. 5896/06
Presented by Shri Amit Singh
dated 24-10-06
12:50

VERSUS

Respondent's :

1. State of Chhattisgarh & Others
Through- The Secretary,
Department of School Education
D.K.S. Bhawan, Raipur (C.G.)
2. District Education Officer,
Distt. – Janjgir -Champa (C.G.)
3. Block Education Officer,
Block – Nawagarh
Distt. – Janjgir -Champa (C.G.)

OATH COMMISSIONER
APARNA MALVIYA
CG
23/10/06
Bilaspur Chhattisgarh

RECEIVED-COPY
24/X/06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF SUITABLE WRIT, WRITS, DIRECTION ETC TO DO JUSTICE IN THE MATTER.

(24)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 5862 of 2006

Petitioner : Hemant Kumar Vishwakarma
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5871 of 2006

Petitioner : Dinesh Kumar Rathore
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5849 of 2006

Petitioner : Satish Kumar Tiwari
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Anil Singh Rajput, Advocate for the Petitioner.

Shri V. V. S. Moorthy, Deputy Advocate General with Smt. Anju Ahuja, Deputy Govt. Advocate for the State/respondents.

ORDER

(Passed on this 12th day of December, 2006)

1. The petitioners are working as Assistant Teachers in the government schools. In the course of their services as Assistant Teachers, the petitioners have obtained D.Ed. certificates on their own expenses before 1.3.1999.
2. Learned counsel for the petitioners submits that the 'Basic Training Institute' (B.T.I.) certificate has been renamed by the order of the State Government as 'Diploma in Education' (D.Ed.) certificate. The petitioners, who have obtained D.Ed. certificate prior to 1.3.1999 are entitled to the same relief as is granted to the candidates who had obtained B.T.I./B.Ed. certificates on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999.
3. Learned Deputy Advocate General, appearing for the respondents/State, produced a copy of the memo dated

12.12.2006 issued by the Director, Public Instructions, Chhattisgarh, notice dated 28.1.1995 issued by the Secretary, Board of Secondary Education, Bhopal, and the prospectus of Diploma in Education Examination and submits that the nomenclature of the Basic Training Institute i.e. B.T.I. has been renamed as Diploma in Education i.e. D.Ed. Learned Deputy Advocate General also produced a copy of the circular dated 24.12.1998, issued by the School Education Department, Government of Madhya Pradesh, Bhopal, allowing two increments to the teachers who have obtained B.Ed., M.Ed.,B.T.I. examination certificates. The documents are taken on record in W. P. No. 5862/2006.

4. Writ Petition (s) No.s 5862/2006, 5871/2006 and 5849/2006 are being disposed of by this common order as the facts and question of law involved in both the petitions are common.

5. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. /B.T.I. Certificate on their own expenses, are covered by the circular dated 24.12.98 (Annexure P/7) issued by the State Government of Madhya Pradesh.

6. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A.No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

7. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B.Ed./B.T.I. certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

8. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

9. Accordingly, in the event D.Ed. certificate holders are equal to B.T.I./B.Ed. certificate holders, they are entitled to the same relief in terms of the orders passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired D.Ed. Certificate on their own expenses as per the circulars dated 24.12.1998 & 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

10. A copy of this order be placed on record in connected matter.

Sd/-
Satish K. Agnihotri
Judge

Thakur